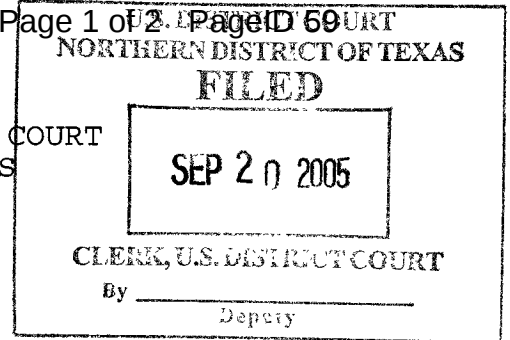


ORIGINAL

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION



DALE KEVIN KOLB,

Petitioner,

VS.

DOUGLAS DRETKE, DIRECTOR, TEXAS  
DEPARTMENT OF CRIMINAL JUSTICE,  
CORRECTIONAL INSTITUTIONS  
DIVISION,

Respondent.

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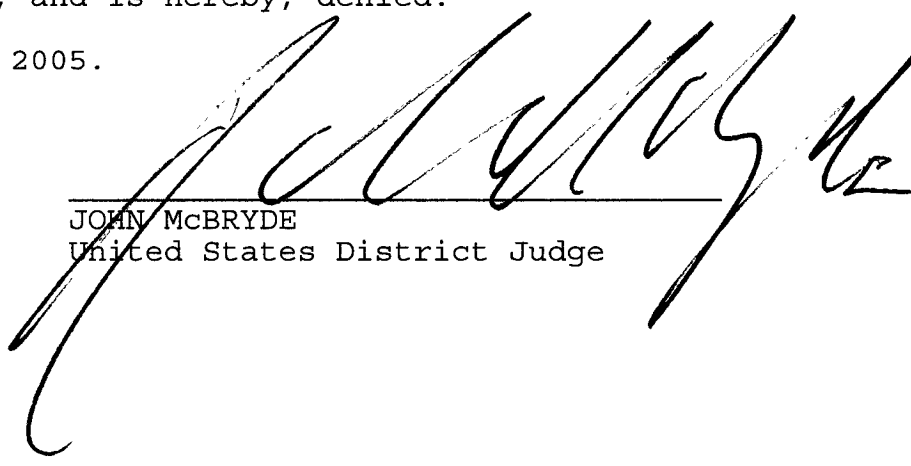
O R D E R

Came on for consideration the above-captioned action wherein Dale Kevin Kolb is petitioner and Douglas Dretke is respondent. This is a petition for writ of habeas corpus filed pursuant to 28 U.S.C. § 2254. On August 25, 2005, the United States Magistrate Judge issued his proposed findings, conclusions, and recommendation, and ordered that the parties file objections, if any, thereto by September 15, 2005. On September 16, 2005 petitioner filed his written objections. Respondent has not made any further response. In accordance with 28 U.S.C. § 636(b)(1) and Rule 72 of the Federal Rules of Civil Procedure, the court makes a de novo determination of those portions of the proposed findings or recommendations to which specific objection is made. United States v. Raddatz, 447 U.S. 667 (1980). The court is not addressing any nonspecific objections or any frivolous or conclusory objections. Battle v. United States Parole Comm'n, 834 F.2d 419, 421 (5th Cir. 1987).

The only specific objection petitioner makes concerns whether the Texas Court of Criminal Appeals abused its discretion by denying his initial habeas application without conducting a hearing. As the magistrate judge's opinion made clear: "Habeas corpus is available only for the vindication of rights existing under federal law; not rights existing solely under the rules of state procedure." Nelson v. Estelle, 642 F.2d 903, 905-06 (5th Cir. 1981). Whether or not the Court of Criminal Appeals properly entertained petitioner's state habeas petition implicates no such federal right--it is a right existing solely under the laws of Texas criminal procedure. Therefore,

The court accepts the findings, conclusions and recommendation of the magistrate judge and ORDERS that the petition in this action be, and is hereby, denied.

SIGNED September 20, 2005.



JOHN McBRYDE  
United States District Judge